

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LARRY GENE HEGGEM,)	CASE NO. C07-1012-MJP-MAT
)	
Plaintiff,)	
)	
v.)	ORDER DENYING PLAINTIFF'S
)	SECOND MOTION FOR
ANDREA MATHERN, et al.,)	APPOINTMENT OF COUNSEL AND
)	STRIKING MOTION TO AMEND
Defendants.)	
_____)	

The Court, having reviewed plaintiff's second motion for appointment of counsel, plaintiff's motion for leave to file an amended complaint, and the balance of the record, does hereby find and

ORDER:

(1) Plaintiff's second motion for appointment of counsel (Dkt. No. 22) is DENIED.

As plaintiff was previously advised, there is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding

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01 of exceptional circumstances requires an evaluation of both the likelihood of success on the merits
02 and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal
03 issues involved. *Wilborn*, 789 F.2d at 1331.

04 Plaintiff has neither demonstrated a likelihood of success on the merits nor shown that, in
05 light of the complexity of the legal issues involved, he is unable to articulate his claims pro se.
06 Thus, plaintiff has not demonstrated that this case involves exceptional circumstances which
07 warrant appointment of counsel at the present time.

08 (2) Plaintiff's motion for leave to file an amended complaint (Dkt. No. 23) is DENIED.
09 Plaintiff seeks to amend his complaint to add newly developed evidence which is apparently
10 intended to bolster his claims against two of the named defendants, Andrea Mathern and Marie
11 Cross. Plaintiff failed to submit a proposed amended complaint in conjunction with his motion.
12 This alone is fatal to plaintiff's motion. In addition, however, plaintiff fails to make clear how this
13 newly developed evidence supports any claim that Ms. Mathern or Ms. Cross violated any of his
14 federal constitutional rights.

15 (3) The Clerk shall send copies of this Order to plaintiff and to the Honorable Marsha
16 J. Pechman.

17 DATED this 12th day of February, 2008.

18 
19 Mary Alice Theiler
20 United States Magistrate Judge
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